

1999 SENATE BILL 361

February 2, 2000 – Introduced by Senators ROESSLER and ELLIS, cosponsored by Representatives UNDERHEIM, WALKER, GROTHMAN, KEDZIE, KAUFERT and OWENS. Referred to Insurance, Tourism, Transportation and Corrections.

1 **AN ACT to renumber and amend** 125.31 (1); **to amend** 125.31 (3) (b); and **to**
2 **create** 125.02 (1m), 125.31 (1) (a) 1. and 125.31 (1) (a) 3. of the statutes;
3 **relating to:** the number of Class “B” licenses that may be issued to certain
4 small brewers.

Analysis by the Legislative Reference Bureau

Under current law, alcohol beverages are generally distributed from the manufacturer to the consumer under a three-tier distribution system: the manufacturer may sell only to a wholesaler or rectifier (a person who blends, refines or purifies distilled spirits or wines); the wholesaler or rectifier may sell only to a wholesaler or to a retailer; the retailer may sell only to the consumer. With specific exceptions, no person may sell outside the three-tier system and no person may sell alcohol beverages to a consumer unless the seller possesses a license or permit authorizing the sale. A specific exception allows a brewer to provide its fermented malt beverages (beer) free of charge, for consumption on the brewery premises. Another exception allows a brewer to sell beer, for consumption on or off the premises, at not more than two licensed locations: one location on brewery premises and one location on real property owned by the brewery, or its subsidiary or affiliate.

A brewer is required to hold a Class “B” license (authorizing the retail sale of beer for consumption on or off the premises where sold) for each such location.

This bill allows small brewers to hold Class “B” licenses for any number of qualifying restaurants, in addition to the two other licensed locations. The bill defines a “small brewer” as a brewer that, together with all related brewers, produces

SENATE BILL 361

less than 10,000 barrels (310,000 U.S. gallons) of beer in one year. The following are all considered related brewers: brewers that are owned by a common majority owner, whether the brewers are corporations, sole proprietorships or partnerships; brewers that are considered with the brewer in question as one taxpayer under federal occupational tax law; brewers that are franchisees or the franchisor of the brewer; and brewers that are franchisees of the brewer's franchisor. A "qualifying restaurant" is a restaurant in which the sale of alcohol beverages accounts for less than 50% of its gross receipts.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 125.02 (1m) of the statutes is created to read:

2 125.02 **(1m)** "Barrel" means 31 U.S. gallons.

3 **SECTION 2.** 125.31 (1) of the statutes is renumbered 125.31 (1) (a) 2. and
4 amended to read:

5 125.31 **(1)** (a) 2. Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may
6 maintain and operate a one place on brewery premises and a one place on real estate
7 owned by the brewer or a subsidiary or affiliate corporation or limited liability
8 company for the sale of fermented malt beverages for which a Class "B" license is
9 required for each place, but not more than 2 such Class "B" licenses shall be issued
10 to any brewer. This subdivision does not apply to a small brewer.

11 (b) Notwithstanding ss. 125.29 (2) and 125.33 (1), a brewer may also own,
12 maintain or operate places for the sale of fermented malt beverages at the state fair
13 park or on any county fairgrounds located in this state, in addition to places
14 authorized under par. (a).

15 (c) Any Class "B" license necessary in connection with this subsection shall be
16 issued to the brewer.

SENATE BILL 361

1 (d) Notwithstanding s. 125.33 (1), a brewer may own the furniture, fixtures,
2 fittings, furnishings and equipment on such premises and shall pay any license fee
3 or tax required for the operation of the premises.

4 **SECTION 3.** 125.31 (1) (a) 1. of the statutes is created to read:

5 125.31 **(1)** (a) 1. In this paragraph, “small brewer” means a brewer that,
6 together with the fermented malt beverages manufactured during the same year by
7 all of the following, manufactures less than 10,000 barrels of beer annually:

8 a. All brewers that share membership with the brewer in a controlled group of
9 brewers, as determined under 26 USC 5051 (a) (2) (B).

10 b. All brewers considered with the brewer as one taxpayer under 27 CFR
11 25.111b (b).

12 c. All franchisees, as defined in s. 553.03 (5), of the brewer.

13 d. All franchisees, as defined in s. 553.03 (5), of the brewer’s franchisor, as
14 defined in s. 553.03 (6).

15 e. The franchisor, as defined in s. 553.03 (6), of the brewer.

16 **SECTION 4.** 125.31 (1) (a) 3. of the statutes is created to read:

17 125.31 **(1)** (a) 3. Notwithstanding ss. 125.29 (2) and 125.33 (1), a small brewer
18 may maintain and operate, for the sale of fermented malt beverages, one place on
19 brewery premises; one place on real estate owned by the brewer or a subsidiary or
20 affiliate corporation or limited liability company; and any number of restaurants in
21 each of which the sale of alcohol beverages accounts for less than 50% of its gross
22 receipts. A Class “B” license is required for each place described in this subdivision.

23 **SECTION 5.** 125.31 (3) (b) of the statutes is amended to read:

